

# **EXHIBIT 4**

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Page 1

1                   UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF CALIFORNIA  
3                   SAN FRANCISCO DIVISION

4                 -----x  
5           IN RE GOOGLE PLAY STORE                   Case No.  
6           ANTITRUST LITIGATION                       3:21-md-02981-JD

7                 THIS DOCUMENT RELATES TO:              MDL No. 2891

8                 In re Google Play Consumer  
9                 Antitrust Litigation,  
10                Case No. 3:20-cv-05761-JD

11                Epic Games Inc. v. Google LLC,  
12                et al.,  
13                Case No. 3:20-cv-05671-JD

14                -----x  
15                \*HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY\*

16                REMOTE VIDEOTAPED DEPOSITION BY VIRTUAL ZOOM OF

17                JAMES MICKENS

18                Wednesday, March 22, 2023

19  
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22  
23  
24                Reported By: Lynne Ledanois, CSR 6811  
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et al.,  
11               Case No. 3:20-cv-05671-JD

12               -----x  
13  
14               Remote videotaped deposition of JAMES  
15               MICKENS, taken in Boston, Massachusetts, commencing  
16               at 10:05 a.m. Eastern, on Wednesday, March 22, 2023  
17               before Lynne Ledanois, Certified Shorthand Reporter  
18               No. 6811

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1                   REMOTE APPEARANCES

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3                   Counsel for Plaintiff Epic Games, Inc. in:  
4                   Epic Games, Inc. v Google LLC, et al:

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1                   **REMOTE APPEARANCES**

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4       **Rainbow, Inc.; PlentyofFish Media ULC; and People**  
5       **Media:**

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16       **ALSO PRESENT:**

17       **Arzu Mammadova, Keystone Strategy**

18       **Stephen Myers, Match Group**

19       **Jeanette Teckman, Match Group**

20       **Jeffree Anderson, Videographer**

21       **Rikki Williams, Veritext Tech**

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1 browser provides a similar warning?

2 A I do not know.

3 Q Do you know if the Microsoft Edge browser  
4 provides a similar warning?

5 A I do not know.

6 Q Do you think it is reasonable for browser  
7 vendors to provide the warning we see in step 2?

8 MR. CLARKE: Object to form.

9 THE WITNESS: By reasonable, what do you  
10 mean?

11 BY MR. OLASA:

12 Q Do you think it was a good design decision  
13 for browser vendors to include the warning we see in  
14 step 2?

15 A It's reasonable to the extent that the  
16 downloading of an APK file is sort of different in  
17 terms of ramifications than the downloading of a  
18 picture, let's say.

19 Q So you do think it was a good design  
20 decision for browser vendors to include this  
21 warning; right?

22 MR. CLARKE: Object to form.

23 THE WITNESS: Well, I think that in this  
24 case, there is a decision that browser makers are  
25 making here with respect to the potential risk of an

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1 action. So that's why I was bringing up the analogy  
2 with downloading a picture.

3 So to the extent that this warning is  
4 actually commensurate with risk, it's a good idea.

5 BY MR. OLASA:

6 Q When the browser -- is this warning  
7 commensurate with risk?

8 A Well, I think that it is -- that there is a  
9 higher risk of harm from downloading an APK versus  
10 downloading a picture, for instance.

11 Q So is this warning in step 2 commensurate  
12 with that risk?

13 MR. CLARKE: Object to form.

14 THE WITNESS: It's commensurate in the  
15 sense that it's presenting more friction for a  
16 potentially more dangerous operation.

17 BY MR. OLASA:

18 Q And is it proportional -- is this warning  
19 proportional to the danger from a potentially more  
20 dangerous operation?

21 MR. CLARKE: Object to form.

22 THE WITNESS: I think that this warning  
23 captures the higher likelihood of risk from  
24 downloading an APK versus downloading an image.

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1 BY MR. OLASA:

2 Q In providing this warning, the browser has  
3 not made a determination as to whether that  
4 particular APK is or is not harmful; correct?

5 A So that is true. But that is true because  
6 it is required to be true because Android does not  
7 support anything like the notarization counterfactuals  
8 that I describe.

9 So this is another example where sort of  
10 the current affordances of what the browsers can  
11 provide with respect to these types of warnings are  
12 affected by the design choices that Google has made  
13 for how the Android operates.

14 Q There are commercially available virus or  
15 malware scanning tools for Android; correct?

16 A Correct.

17 Q A browser vendor could choose to run an  
18 APK file through those tools and provide the results  
19 of that analysis to the user; correct?

20 MR. CLARKE: Object to form.

21 THE WITNESS: That may not be trivial to  
22 do for architectural reasons. But in theory, for  
23 example, a browser vendor could decide to directly  
24 incorporate an antivirus tool into its own source  
25 code.

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1 browser the implementation mechanism for Play  
2 Store 2.0 and therefore they sort of elided the  
3 spirit of the counterfactual proposal by pushing all  
4 the friction there.

5 Q I follow that. I guess my question is a  
6 little different.

7 Your proposal for centralized and  
8 decentralized notarization does not propose  
9 eliminating browser warnings; right?

10 MR. CLARKE: Object to form.

11 THE WITNESS: Well, it doesn't -- my  
12 assignment was to look at Android, the core  
13 platform. And it wasn't to look into the friction  
14 specifically imposed by things like browsers.

15 BY MR. OLASA:

16 Q Okay. And so as a result of that, you  
17 don't have a proposal one way or the other as to  
18 whether browser warnings should be eliminated;  
19 correct?

20 MR. CLARKE: Object to form.

21 THE WITNESS: The counterfactuals I  
22 propose don't address that either which way.

23 BY MR. OLASA:

24 Q All right. So then the user in the  
25 workflow here on Figure 22 clicks "download anyway"

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1 GOOGLE PLAY STORE ANTITRUST LITIGATION

2 3/22/2023 - JAMES MICKENS

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, JAMES MICKENS, do hereby declare that I  
5 have read the foregoing transcript, I have made  
6 any corrections, additions, or changes I deemed  
7 necessary as noted on the Errata to be appended  
8 hereto, and that the same is a true, correct and  
9 complete transcript of the testimony given by me.

10

11

12

JAMES MICKENS

Date

13

\*If notary is required

14

SUBSCRIBED AND SWORN TO BEFORE ME THIS

15

DAY OF \_\_\_\_\_, 20 \_\_\_\_.

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NOTARY PUBLIC

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